

REMARKS

This request for reconsideration is filed in response to the Office Action dated March 24, 2009. For the following reasons this application should be allowed and the case passed to issue.

Claims 1-25 are pending in this application. Claims 18-25 are withdrawn pursuant to a restriction requirement. Claims 1-17 were rejected.

Claim Rejections Under 35 U.S.C. § 102

Claims 1-17 were rejected under 35 U.S.C. § 102(b) as being anticipated by Chizawa et al. (EP 1030396). This rejection is traversed, and reconsideration and withdrawal thereof respectfully requested. The following is a comparison between the present invention, as claimed, and the cited prior art.

An aspect of the present invention, per claim 1, is a polymer electrolyte fuel cell comprising a membrane electrode assembly comprising a polymer film and a pair of electrodes formed on both surfaces of the polymer film. A downstream gas supply channel faces a specific electrode of the pair of the electrodes. An upstream gas supply channel which supplies a reaction gas to the downstream gas supply channel is not facing the specific electrode. A partition wall which is made from a porous material, is arranged substantially parallel to the polymer film and partitions the downstream gas supply channel and the upstream gas supply channel.

Chizawa et al. do not anticipate the claimed polymer electrolyte fuel cell because Chizawa et al. do not disclose a downstream gas supply channel faces a specific electrode of the pair of the electrodes, an upstream gas supply channel which supplies a reaction gas to the downstream gas supply channel is not facing the specific electrode, and a partition wall which is

made from a porous material, is arranged substantially parallel to the polymer film, as required by claim 1.

Chizawa et al. disclose reacted gas grooves 12a, 12b, unreacted gas grooves 11a, 11b, and a porous body 14 interposed between the reacted gas grooves 12a, 12b and the unreacted gas grooves 11a, 11b in the temperature/humidity exchange portion 10 (see Fig. 2A). However, the reacted gas grooves 12a, 12b do not correspond to the downstream gas supply channel of the claim 1, the unreacted gas grooves 11a, 11b do not correspond to the upstream gas supply channel of the claim 1, and the porous body 14 does not correspond to the partition wall of claim 1. The reacted gas grooves 12a, 12b, unreacted gas grooves 11a, 11b, and the porous body 14 are provided in the temperature/humidity exchange portion 10 of Chizawa et al., which is outside the fuel cell stack 6, and hence the temperature/humidity exchange portion 10 is not a component of the polymer electrolyte fuel cell 4 as in the present invention.

Because the porous body 14 is a part of the temperature/humidity exchange portion 10, which is provided outside the fuel cell stack 6, the Office can not assert that the porous body 14 is arranged substantially parallel to the polymer film as required by claim 1 of the present invention. Further, because the reacted gas grooves 12a, 12b are formed in the temperature/humidity exchange portion 10, it is physically impossible to make the reacted gas grooves 12a, 12b face a specific electrode of the pair of the electrodes of the membrane electrode assembly, which is a part of the fuel cell 4 stacked into the fuel cell stack 6.

Figs. 11-16 of Chizawa et al. show various constructions of a fuel cell 4 in which air flow and water vapor flow are indicated. However, the downstream gas supply channel, upstream gas supply channel, and partition wall, as required by claim 1, are not shown in Chizawa et al.

The factual determination of lack of novelty under 35 U.S.C. § 102 requires the disclosure in a single reference of each element of a claimed invention. *Helifix Ltd. v. Blok-Lok Ltd.*, 208 F.3d 1339, 54 USPQ2d 1299 (Fed. Cir. 2000); *Electro Medical Systems S.A. v. Cooper Life Sciences, Inc.*, 34 F.3d 1048, 32 USPQ2d 1017 (Fed. Cir. 1994); *Hoover Group, Inc. v. Custom Metalcraft, Inc.*, 66 F.3d 399, 36 USPQ2d 1101 (Fed. Cir. 1995); *Minnesota Mining & Manufacturing Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559, 24 USPQ2d 1321 (Fed. Cir. 1992); *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051 (Fed. Cir. 1987). Because Chizawa et al. do not disclose a downstream gas supply channel faces a specific electrode of the pair of the electrodes, an upstream gas supply channel which supplies a reaction gas to the downstream gas supply channel is not facing the specific electrode, and a partition wall which is made from a porous material, is arranged substantially parallel to the polymer film, as required by claim 1, Chizawa et al. do not anticipate claim 1.

Applicants further submit that Chizawa et al. do not suggest the claimed polymer electrolyte fuel cell.

The dependent claims are allowable for at least the same reasons as claim 1, and further distinguish the claimed polymer electrolyte fuel cell.

In view of the above remarks, Applicant submits that this application should be allowed and the case passed to issue. If there are any questions regarding this response or the application in general, a telephone call to the undersigned would be appreciated to expedite the prosecution of the application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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